

CLOSED

IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

United States of America,

Plaintiff,

vs.

Jerri Ellen MCCOY

Defendant.

DISMISSAL ORDER

CASE: 08-15608M-SD

All charges against the Defendant, Jerri Ellen MCCOY, are dismissed without prejudice in the above-mentioned case. It is further ordered that bench trial set for May 13, 2008 is vacated. Material witness is ordered released from the U.S. Marshal's Service custody.
DATED this 9th day of April 2008.

Jay R. Irwin
United States Magistrate Judge

cc: USM/PTS/BP *oil*

IN THE UNITED STATES DISTRICT COURT

Southern
FOR THE DISTRICT OF ~~ARIZONA~~ *California*

United States of America,

Plaintiff,

vs.

Jerri Ellen MCCOY

Defendant.

**MOTION TO DIMISS WITHOUT
PREJUDICE**

Case: 08-15608M-SD

The Government moves to dismiss all charges against the Defendant, Jerri Ellen MCCOY, in the above referenced case, without prejudice. The reason for the dismissal is prosecutorial discretion.

DATED this 9th day of April.


Assistant United States Attorney

Border Patrol Prosecution Agent

cc: USM/PTS/BP *git*

UNITED STATES DISTRICT COURT

DISTRICT OF ARIZONA

UNITED STATES OF AMERICA

v.

ORDER OF DETENTION PENDING TRIALJeri Ellen McCoyCase Number: 08-15608M-001

In accordance with the Bail Reform Act, 18 U.S.C. § 3142(f), a detention hearing has been held. I conclude that the following facts are established: (Check one or both, as applicable.)

- ☐ by clear and convincing evidence the defendant is a danger to the community and require the detention of the defendant pending trial in this case.
- ☒ by a preponderance of the evidence the defendant is a serious flight risk and require the detention of the defendant pending trial in this case.

PART I -- FINDINGS OF FACT

- ☐ (1) The defendant has been convicted of a (federal offense)(state or local offense that would have been a federal offense if a circumstance giving rise to federal jurisdiction had existed) that is
- ☐ a crime of violence as defined in 18 U.S.C. § 3156(a)(4).
 - ☐ an offense for which the maximum sentence is life imprisonment or death.
 - ☐ an offense for which a maximum term of imprisonment of ten years or more is prescribed in _____¹
 - ☐ a felony that was committed after the defendant had been convicted of two or more prior federal offenses described in 18 U.S.C. § 3142(f)(1)(A)-(C), or comparable state or local offenses.
- ☐ (2) The offense described in finding 1 was committed while the defendant was on release pending trial for a federal, state or local offense.
- ☐ (3) A period of not more than five years has elapsed since the (date of conviction)(release of the defendant from imprisonment) for the offense described in finding 1.
- ☐ (4) Findings Nos. (1), (2) and (3) establish a rebuttable presumption that no condition or combination of conditions will reasonably assure the safety of (an)other person(s) and the community. I further find that the defendant has not rebutted this presumption.

Alternative Findings

- ☐ (1) There is probable cause to believe that the defendant has committed an offense
- ☐ for which a maximum term of imprisonment of ten years or more is prescribed in _____²
 - ☐ under 18 U.S.C. § 924(c)
- ☐ (2) The defendant has not rebutted the presumption established by finding 1 that no condition or combination of conditions will reasonably assure the appearance of the defendant as required and the safety of the community.

Alternative Findings

- ☒ (1) There is a serious risk that the defendant will flee; no condition or combination of conditions will reasonably assure the appearance of the defendant as required.
- ☐ (2) No condition or combination of conditions will reasonably assure the safety of others and the community.
- ☐ (3) There is a serious risk that the defendant will (obstruct or attempt to obstruct justice) (threaten, injure, or intimidate a prospective witness or juror).
- ☐ (4) _____

¹Insert as applicable: (a) Controlled Substances Act (21 U.S.C. § 801 et seq.); (b) Controlled Substances Import and Export Act (21 U.S.C. § 951 et seq.); or (c) Section 1 of Act of Sept. 15, 1980 (21 U.S.C. § 955a).

²Insert as applicable: (a) Controlled Substances Act (21 U.S.C. § 801 et seq.); (b) Controlled Substances Import and Export Act (21 U.S.C. § 951 et seq.); or (c) Section 1 of Act of Sept. 15, 1980 (21 U.S.C. § 955a).

PART II -- WRITTEN STATEMENT OF REASONS FOR DETENTION

(Check one or both, as applicable.)

- ☐ (1) I find that the credible testimony and information³ submitted at the hearing establishes by clear and convincing evidence as to danger that:

- ☒ (2) I find that a preponderance of the evidence as to risk of flight that:

☐ The defendant has no significant contacts in the District of Arizona.

☒ The defendant has no resources in the United States from which he/she might make a bond reasonably calculated to assure his/her future appearance.

☒ The defendant has a prior criminal history.

☒ There is a record of prior failure to appear in court as ordered.

☐ The defendant attempted to evade law enforcement contact by fleeing from law enforcement.

☐ The defendant is facing a minimum mandatory of _____ incarceration and a maximum of _____.

- ☐ The defendant does not dispute the information contained in the Pretrial Services Report, except:

- ☐ In addition:

The Court incorporates by reference the findings of the Pretrial Services Agency which were reviewed by the Court at the time of the hearing in this matter.

³ "The rules concerning admissibility of evidence in criminal trials do not apply to the presentation and consideration of information at the [detention] hearing." 18 U.S.C. § 3142(f). See 18 U.S.C. § 3142(g) for the factors to be taken into account.

PART III -- DIRECTIONS REGARDING DETENTION

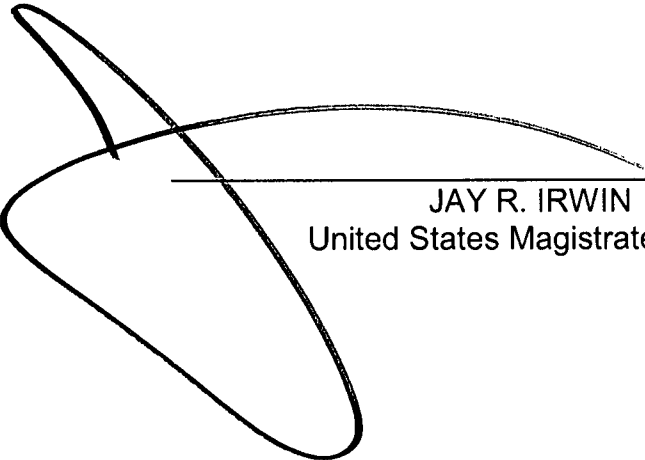
The defendant is committed to the custody of the Attorney General or his/her designated representative for confinement in a corrections facility separate, to the extent practicable, from persons awaiting or serving sentences or being held in custody pending appeal. The defendant shall be afforded a reasonable opportunity for private consultation with defense counsel. On order of a court of the United States or on request of an attorney for the Government, the person in charge of the corrections facility shall deliver the defendant to the United States Marshal for the purpose of an appearance in connection with a court proceeding.

PART IV -- APPEALS AND THIRD PARTY RELEASE

IT IS ORDERED that should an appeal of this detention order be filed with the District Court, it is counsel's responsibility to deliver a copy of the motion for review/reconsideration to Pretrial Services at least one day prior to the hearing set before the District Court.

IT IS FURTHER ORDERED that if a release to a third party is to be considered, it is counsel's responsibility to notify Pretrial Services sufficiently in advance of the hearing before the District Court to allow Pretrial Services an opportunity to interview and investigate the potential third party custodian.

DATE: April 7, 2008



JAY R. IRWIN
United States Magistrate Judge

FINANCIAL AFFIDAVIT

CJA 23

IN SUPPORT OF REQUEST FOR ATTORNEY, EXPERT OR OTHER COURT SERVICES WITH

IN UNITED STATES
IN THE CASE OF☐ MAGISTRATE ☐ DISTRICT ☐ APPEALS COURT or ☐ OTHER PANEL (Specify below)

FOR

AT

PERSON REPRESENTED (Show your full name)

Jeri Ellen McCoy

CHARGE/OFFENSE (describe if applicable & check box →)

☐ Felony
☒ Misdemeanor

8-1324

18-3 + 8-1325

- ☐ Defendant - Adult
☐ Defendant - Juvenile
☐ Appellant
☐ Probation Violator
☐ Parole Violator
☐ Habeas Petitioner
☐ 2255 Petitioner
☐ Material Witness
☐ Other (Specify)

68-15608-50

District Court

Court of Appeals

ANSWERS TO QUESTIONS REGARDING ABILITY TO PAY

ASSETS	EMPLOYMENT	Are you now employed? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No <input type="checkbox"/> Am Self Employed																			
		Name and address of employer: _____																			
	OTHER INCOME	IF YES, how much do you earn per month? \$ _____ IF NO, give month and year of last employment _____ How much did you earn per month? \$ _____																			
		If married is your Spouse employed? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No IF YES, how much does your Spouse earn per month? \$ _____ If a minor under age 21, what is your Parents or Guardian's approximate monthly income? \$ _____																			
CASH	Have you received within the past 12 months any income from a business, profession or other form of self-employment, or in the form of rent payments, interest, dividends, retirement or annuity payments, or other sources? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No RECEIVED _____ SOURCES _____ IF YES, GIVE THE AMOUNT RECEIVED & IDENTIFY \$ _____ THE SOURCES _____																				
	Have you any cash on hand or money in savings or checking account <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No IF YES, state total amount \$ _____																				
PROP-ERTY	Do you own any real estate, stocks, bonds, notes, automobiles, or other valuable property (excluding ordinary household furnishings and clothing)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No VALUE _____ DESCRIPTION _____ IF YES, GIVE THE VALUE AND \$ _____ DESCRIBE IT _____																				
	Do you own any real estate, stocks, bonds, notes, automobiles, or other valuable property (excluding ordinary household furnishings and clothing)? <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No VALUE _____ DESCRIPTION _____ IF YES, GIVE THE VALUE AND \$ _____ DESCRIBE IT _____																				
OBLIGATIONS & DEBTS	DEPENDENTS	MARITAL STATUS <input checked="" type="checkbox"/> SINGLE <input type="checkbox"/> MARRIED <input type="checkbox"/> WIDOWED <input type="checkbox"/> SEPARATED OR DIVORCED Total No. of Dependents <u>2</u> List persons you actually support and your relationship to them _____ _____ _____ _____																			
	DEBTS & MONTHLY BILLS (LIST ALL CREDITORS, INCLUDING BANKS, LOAN COMPANIES, CHARGE ACCOUNTS, ETC.)	<table border="1"> <thead> <tr> <th>APARTMENT OR HOME:</th> <th>Creditors</th> <th>Total Debt</th> <th>Monthly Payt.</th> </tr> </thead> <tbody> <tr> <td>_____</td> <td>_____</td> <td>\$ _____</td> <td>\$ _____</td> </tr> <tr> <td>_____</td> <td>_____</td> <td>\$ _____</td> <td>\$ _____</td> </tr> <tr> <td>_____</td> <td>_____</td> <td>\$ _____</td> <td>\$ _____</td> </tr> <tr> <td>_____</td> <td>_____</td> <td>\$ _____</td> <td>\$ _____</td> </tr> </tbody> </table>	APARTMENT OR HOME:	Creditors	Total Debt	Monthly Payt.	_____	_____	\$ _____	\$ _____	_____	_____	\$ _____	\$ _____	_____	_____	\$ _____	\$ _____	_____	_____	\$ _____
APARTMENT OR HOME:	Creditors	Total Debt	Monthly Payt.																		
_____	_____	\$ _____	\$ _____																		
_____	_____	\$ _____	\$ _____																		
_____	_____	\$ _____	\$ _____																		
_____	_____	\$ _____	\$ _____																		

I certify under penalty of perjury that the foregoing is true and correct. Executed on (date) 4/7/08SIGNATURE OF DEFENDANT
(OR PERSON REPRESENTED)

Jeri McCoy

DATE: 4/7/08 CASE NUMBER: 08-15608M-SD-001

USA vs. Jeri Ellen McCoy

U.S. MAGISTRATE JUDGE: JAY R. IRWIN #: 70BK

A.U.S. Attorney _____ INTERPRETER _____
LANGUAGE English

Attorney for Defendant Bruce Yancey (AFPD)

MATERIAL WITNESS(es): 1-Juan M. Lopez-Aranda (Spanish Interpreter Ricardo Gonzalez)

MATERIAL WITNESS(es) state true name(s) to be: _____

Attorney for Material Witness(es): _____

DEFENDANT: ☒ PRESENT ☐ NOT PRESENT ☒ CUSTODY

DOA 4/6/08 ☒ Initial Appearance ☒ Appointment of counsel hearing held
☒ Financial Afdvt taken ☒ Defendant Sworn ☐ Financial Afdvt sealed
☐ Rule 5(c)(3) ☐ Defendant states true name to be _____. Further proceedings ORDERED
in Defendant's true name.

DETENTION HEARING: <input type="checkbox"/> Held <input type="checkbox"/> Con't <input checked="" type="checkbox"/> Submitted <input type="checkbox"/> Reset Set for: Before: <input type="checkbox"/> Defendant ordered temporarily detained in the custody of the United States Marshal <input type="checkbox"/> Defendant ordered released _____ <input checked="" type="checkbox"/> Defendant continued detained pending trial <input checked="" type="checkbox"/> Flight risk <input type="checkbox"/> Danger	IDENTITY HEARING: <input type="checkbox"/> Held <input type="checkbox"/> Con't <input type="checkbox"/> Submitted <input type="checkbox"/> Reset <input type="checkbox"/> Waived Set for: Before: <input type="checkbox"/> Warrant of removal issued.
PRELIMINARY HEARING: <input type="checkbox"/> Held <input type="checkbox"/> Con't <input type="checkbox"/> Submitted <input type="checkbox"/> Reset <input type="checkbox"/> Waived Set for: Before: <input type="checkbox"/> Probable cause found <input type="checkbox"/> Dismissed <input type="checkbox"/> Held to answer before District Court	BENCH TRIAL <input type="checkbox"/> Held <input type="checkbox"/> Con't <input type="checkbox"/> Reset Set for: <u>5/13/08 at 9:00 am</u> Before: <u>Magistrate Judge Irwin</u>

Other: Defendant enters a plea of not guilty and wishes to go to trial. Prosecution Agent Joseluis Reynoso, appearing for the Government, has no objection setting this matter for bench trial on the misdemeanor offense. Material witness is initialed and ordered temporarily detained.

Recorded by Courtsmart
BY: Angela J. Tuohy
Deputy Clerk

04/06
United States District Court

~~Southern~~ ~~CENTRAL~~ DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA

V.

Jeri Ellen MCCOY
United States Citizen

CRIMINAL COMPLAINT

CASE NUMBER: 08-15608M-SD

I, the undersigned complainant being duly sworn state the following is true and correct to the best of my knowledge and belief.

4 JT ~~southern~~ COUNT I

That on or about April 6, 2008, within the ~~Central~~ District of California, Defendant(s) Jeri Ellen MCCOY, knowing or in reckless disregard of the fact that certain alien(s), namely, LOPEZ-Aranda, Juan M, BANUELOS-Treto, Jose, had come to, entered, or remained in the United States in violation of law, did transport or move or attempt to transport or move said alien(s) in furtherance of such violation of law, in violation of Title 8, United States Code, Section 1324(a)(1)(A)(ii)(Felony).

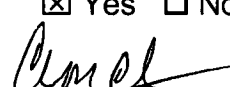
4 ~~southern~~ COUNT II

That on or about April 6, 2008, within the ~~Central~~ District of California, Defendant Jeri Ellen MCCOY did knowingly and willfully aid, abet, and assist the above-named persons who were in the United States in violation of law and that an offense had been committed against the United States, did receive or assist the offender(s) in order to hinder or prevent his/her/their apprehension; in violation of Title 18, United States Code, Section 3 and Title 8, United States Code, Section 1325 (Misdemeanor).

Authorized by AUSA Lynne Ingram

Continued on the attached sheet and made a part hereof. ☒ Yes ☐ No

Sworn to before me and subscribed in my presence,


Signature of Complainant

Chris Cantua

Senior Patrol Agent

April, 7 2008

at

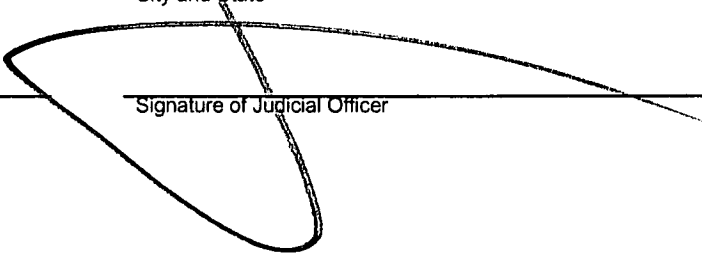
Yuma, Arizona

Date

City and State

Jay R. Irwin, U.S. Magistrate

Name & Title of Judicial Officer


Signature of Judicial Officer

IN THE UNITED STATES DISTRICT COURT
Southern
FOR THE ~~CENTRAL~~ DISTRICT OF CALIFORNIA

United States of America,
Plaintiff,
vs.

(1) Jeri Ellen MCCOY
Citizen of the United States

Defendant,

AFFIDAVIT

08-15608M-SD

FOR DETENTION OF MATERIAL WITNESSES

LOPEZ-Aranda, Juan M.
Citizens of Mexico

BEFORE Jay R. Irwin
(U.S. Magistrate)

325 W. 19th Street Yuma, Arizona 85364
(Address of U. S. Magistrate)

STATE OF ARIZONA)

: ss.

CITY AND COUNTY OF YUMA)

I, Chris Cantua, being duly sworn depose and state:

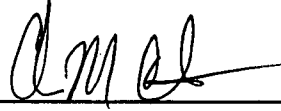
(1) That I have signed the complaint in the above entitled case and have investigated it and I am familiar with the facts of the case.

(2) That on or about April 6, 2008, within the ~~Central~~ *Southern* District of California, Defendant Jeri Ellen MCCOY, knowing or in reckless disregard of the fact that certain alien(s), namely, LOPEZ-Aranda, Juan M, BANUELOS-Treto, Jose, had come to, entered, or remained in the United States in violation of law, did transport or move or attempt to transport or move said alien(s) in furtherance of such violation of law, in violation of Title 8, United States Code, Section 1324(a)(1)(A)(ii)(Felony).

(3) That said aliens are illegally in the United States and that therefore it is wholly impracticable if not impossible to secure their attendance before the U.S. District Court by subpoena.

(4) That the United States Attorney for the District of Arizona, or one of his assistants acting on his behalf, has requested affiant(s) to secure an order of the Magistrate to hold said person(s) as material witness(s).

WHEREFORE affiant on behalf of the government requests the Magistrate commit him/her/them to the custody of the U.S. Marshal.



Affiant

Senior Patrol Agent
Title

Subscribed and sworn to before me this
7th day of April, 2008.



United States Magistrate